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PATENTS

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

*In re Application of* )  
Kossida *et al.* ) Prior Group Art Unit: 1652  
Serial No. 10/631,958 ) Prior Examiner: M. Monshipouri  
Filed: August 1, 2003 ) Atty. Dkt. No. 004974.00951  
  
For: **REGULATION OF HUMAN CERAMIDE KINASE**

**PETITION UNDER 37 C.F.R. § 1.182**

U.S. Patent and Trademark Office  
220 20th Street S.  
Customer Window, Mail Stop Petitions  
Crystal Plaza Two, Lobby, Room 1B03  
Arlington, VA 22202

Sir:

Applicants request correction of the Updated Filing Receipt mailed June 21, 2004. The petition fee of \$130.00 under 37 C.F.R. §1.17(h) should be charged to our Deposit Account No. 19-0733. If any other fee is required or if this amount is incorrect, please charge or credit the account.

**Relief Requested**

Applicants request that the U.S. Patent and Trademark Office issue a corrected filing receipt indicating a filing date of August 1, 2003.

### Reasons Relief Should be Granted

A corrected filing receipt indicating a filing date of August 1, 2003 should be issued because August 1, 2003 is the date on which the Applicants met the filing date requirements of 37 C.F.R. § 1.53(b).

### Facts In Support of Petition

1. Applicants filed this application as a continuation in part of Serial No. 09/696,896 on August 1, 2003. The application contained a specification as prescribed by 35 U.S.C. § 112, 65 claims, and eight sheets of drawings (Figs. 1-8). A copy of Applicants' stamped postcard receipt is attached as Exhibit 1. The postcard indicates that the U.S. Patent and Trademark Office's received the application, including the specification and claims, and Figures 1-8, on August 1, 2003. Thus, the requirements for a filing date under 37 C.F.R. § 1.53(b) were met on August 1, 2003.

2. On October 22, 2003 the U.S. Patent and Trademark Office mailed a Notice to File Missing Parts. The Notice correctly indicated a filing date of August 1, 2003. The Notice requested the statutory filing fee, the executed declaration, and the surcharge under 37 C.F.R. § 1.16(e). The Notice also asserted that Figures 1 and 2 were not present in the application as filed.

3. On December 19, 2003 Applicants filed a response with respect to the assertion that Figures 1 and 2 were not present in the application as filed. The response pointed out that the Figures were filed together with the application but that, even if these figures had not been included in the application as filed, the application incorporates parent application Serial No. 09/696,896 by reference in its entirety. See page 1 of the present application. The parent

application contains Figures 1 and 2.

4. On February 24, 2004 the U.S. Patent and Trademark Office mailed a second Notice to File Missing Parts. This Notice correctly indicated a filing date of August 1, 2003 and again requested an executed declaration.

5. Also on February 24, 2004 the U.S. Patent and Trademark Office mailed a filing receipt correctly indicating a filing date of August 1, 2003.

6. On March 22, 2004 Applicants responded to the Notices to File Missing Parts mailed October 22, 2003 and February 24, 2004 by providing the inventors' executed declaration and paying the required fees.

7. On June 21, 2004 the U.S. Patent and Trademark Office mailed an Updated Filing Receipt that incorrectly indicated a filing date of December 19, 2003.

8. On August 12, 2004 Applicants filed a Request for Corrected Filing Receipt and asked that the filing date on the Updated Filing Receipt be corrected to reflect the correct filing date of August 1, 2003.

9. On September 13, 2004 the U.S. Patent and Trademark Office mailed a response refusing to provide a Corrected Filing Receipt, asserting that "the filing date accorded to the application is the date the application met the filing date requirements of 37 C.F.R. § 1.53(b) or (c)." This is incorrect. December 19, 2003, however, is not the date the requirements of 37 C.F.R. § 1.53(b) were met; it is the date Applicants explained that Figures 1 and 2 were present in the application as filed by virtue of the application's incorporation by reference of the parent application.

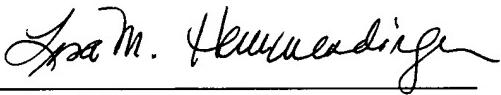
Request for Refund

Because Applicants met the filing date requirements of 37 C.F.R. § 1.53(b) on August 1, 2003, Applicants respectfully requests a refund of the petition fee.

Respectfully submitted,

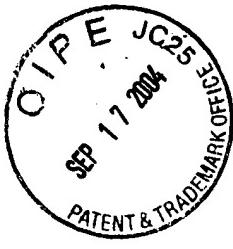
Date: September 17, 2004

By:



Lisa M. Hemmendinger  
Registration No. 42,653

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PATENT  DESIGN B&W Ref. 4974.951 Date 8/1/03

HAND CARRY Group/Section \_\_\_\_\_

Serial/Patent No. 10a Atty/Sec. L M H / mch  
Inventor Kossida & Encinas Client Bayer AG

Title Regulation of Human Ceramide Kinase

The following has been received in the U.S. Patent and Trademark Office on the date stamped hereon:

Total pp Spec. including : # of Claims 60  
# of independent claims 21  Abstract

Drawings :  Formal  Informal  
# of distinct sheets 8 : Figs. -8

Declaration/Power of Attorney :  Executed  Unexecuted

Assignment w/PTO Cover Sheet

IDS w/PTO 1449  References  w/Fee

Preliminary Amendment

Priority Claim (Foreign or U.S. Provisional) B&W \_\_\_\_\_

Country Appl. # Date  
 w/Foreign Priority Document(s)

Application :  CIP  Continuation  Divisional  
Parent Ser. No. 09/919,891 W/ 4974.951

U.S. Provisional \_\_\_\_\_ pp Spec/Claims: Cover Sheet

Response to Missing Parts Requirements dcl \_\_\_\_\_

Response to Notice to File Corrected Appln. Papers dcl \_\_\_\_\_

Request for Expedited Foreign Filing License

Request for Corrected :  Filing Receipt  Assignment

Response to Restriction/Election Requirement

Sequence Listing :  Diskette  Paper 12 pages

Amendment  Response : OA dcl

Petition for Extension of Time until \_\_\_\_\_

CPA  RCE  w/Ext of Time : OA dcl

Request for Approval of Drawing Changes

Notice of Appeal & Fee

Brief :  Appeal & Fee  Reply

Request for Oral Hearing

Issue Fee  Advance Patent Copies (if desired)

Notice of Allowance dcl

Amendment under 37 CFR 1.312

Request for Certificate of Correction

Transmittal  Fee Transmittal w/Auth. to Charge Deposit Acc.

Certificate of Mailing

Check # ADS for \$ 5

ADS NOT A FEE RECEIPT OR A CARD

Request to use CAF of a  
Sequence listing from  
Another application  
w/ statement

(3)